IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO. 29673 OF 2005
with
CIVIL APPLICATION (STAMP) NO. 29674 OF 2005

Smt. Jaishree Balkrishna Saul ....Appellant

Versus

Maharashtra Housing and Area Development Authority and Anr. ...Respondents

Mr.A.S. Khandeparkar, instructed by S/Shri Mohan P.Tekavde & Umesh Jadhav, for the Appellant.

Mr. Joaquim Reis with Mr.Rajesh K. for Respondent No.2.

CORAM: **DR. D.Y. CHANDRACHUD, J.**
DATE: **DECEMBER 21, 2005**.

P.C.

Mentioned. Not on Board.

2. The Learned Trial Judge has disposed of the Notice of Motion declining interim relief. A Scheme under Development Control Regulation 33 (7) is being implemented. The Appellant has been certified by MHADA to be eligible for the allotment of alternative accommodation. The area in the occupation of the Appellant is recorded as 21.89 sq.mtrs. entitling the Appellant to an area admeasuring 225 sq.ft. in the newly constructed building. In the affidavit in reply which was filed by the Developer before the City Civil Court it was stated that the Appellant has been offered Flat No.11 on the first floor of “A” Wing in the building known as Siddhesh Deep

admeasuring 225 sq.ft. In these circumstances, the order of the Learned Trial Judge does not call for interference. According to the Appellant, she is entitled to a higher area than that has been allotted to her. The Appellant has submitted a representation on 16th December, 2005 to MHADA. Notwithstanding the disposal of this Appeal and the Notice of Motion, the Competent Authority in the MHADA shall consider and dispose of the representation in accordance with law within a period of four weeks. The shifting of the Appellant to the newly constructed accommodation shall be without prejudice to the rights and contentions of the Appellant. The Learned Counsel appearing on behalf of the Appellant undertakes on behalf of the Appellant that the Appellant shall shift to the alternate accommodation which has been provided to her on or before 6th January, 2006.

3. The Appeal is accordingly disposed of in the above terms.

4. In view of the disposal of the First Appeal, Civil Application does not survive and the same shall stand disposed of.